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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF DENTISTRY

In the Matter of	:	
	:	Administrative Action
FLOYD DeCHESER, D.D.S.	:	
License No. DI 6418	:	
	:	
Licensed to Practice	:	FINAL ORDER
Dentistry in the	:	OF DISCIPLINE
State of New Jersey	:	
	:	

CERTIFIED TRUE COPY

This matter was opened to the New Jersey State Board of Dentistry ("Board") on information that Floyd DeChesser, D.D.S., had failed to comply with a Board order requiring submission of proof of one hundred (100) hours of continuing education credits. A Provisional Order of Discipline entered on July 21, 1999, preliminarily found respondent had not complied with the terms of the Final Order of Discipline entered on May 3, 1999*. The Provisional Order called for a sixty day suspension for failing to comply with the Board's prior order, which suspension would continue indefinitely until respondent submitted proof of continuing education credits. The order also provisionally assessed a penalty of \$1,000 for failing to comply with the Board's order. The Provisional Order permitted respondent to provide to the Board

* The Board had entered the May 3, 1999, order based on respondent's failure to maintain current licensure between November 1991 and 1999. The order suspended respondent's license to practice for a period of thirty days, which period was served between May 5, 1999 and June 4, 1999, and required him to provide proof of continuing education credits for the three renewal periods.

a written submission seeking modification or dismissal of that order.

The Board attempted to serve respondent with the July 21, 1999 Provisional Order of Discipline by certified mail, return receipt requested. After three attempts at delivery, the Postal Service returned that letter to the Board office as "unclaimed." The Board, by letter dated September 2, 1999, sent by regular and certified mail, notified respondent that the matter would be considered by the Board at its meeting on September 15, 1999. At the time of its meeting on September 15, 1999, the return receipt card from the September 2, 1999 mailing had not been received by the Board office. The letter sent by regular mail, however, had not been returned. While the Board could have presumed service of the Provisional Order, the Board determined that, given the proposed sanction - a sixty day suspension and \$1,000 penalty - respondent should be served personally with the Provisional Order. Personal service was accomplished on September 30, 1999.

In the interim, respondent forwarded a letter to the Board office via certified mail. The letter, dated June 14, 1999, was postmarked September 20, 1999 and received in the Board office on September 23, 1999. Included in that letter were proofs of twenty one (21) hours of continuing education. In acknowledging respondent's letter, the Board's executive director advised respondent that the matter would be considered by the Board on October 6, 1999, and that any information he wished the Board to

consider should be provided to the Board office not later than October 4, 1999.

Rather than respond in writing by the deadline, respondent contacted the deputy attorney general who had prepared the Provisional Order. She agreed to extend the time for filing a response to the order.

On October 18, 1999, respondent faxed a letter to the Board office. He did not dispute the findings of fact made by the Board in its Provisional Order, i.e., that he had not completed the one hundred hours of continuing education credits that were required by the Board's order of May 3, 1999. He claimed that he had faxed a letter to the Board on June 14, 1999 asking for an extension of time to complete the continuing education requirements. When he did not receive a response from the Board regarding the extension, but did receive a current license, he assumed that the extension was approved. Respondent provided no proof of the facsimile transmission. He attached to October 18, 1999, letter proof for some courses that he has taken as well as information on courses for which he has registered. Respondent requested an additional ninety (90) days to complete the remaining course work.

The Board's records do not contain a June 14, 1999 fax from respondent. As noted above, a letter dated June 14, 1999, postmarked September 20, 1999, was received in the Board's office on September 23, 1999.

FINDINGS OF FACT

1. Floyd DeCheser, D.D.S. (respondent) has been a licensee of the Board at all times relevant hereto.

2. On May 3, 1999, a Final Order of Discipline was entered suspending respondent from the practice of dentistry for thirty days from May 5, 1999 to June 4, 1999 for practicing dentistry with a lapsed license since November, 1991 (Final Order attached as Exhibit A and made a part of this order).

3. The May 3, 1999 Final Order of Discipline also ordered respondent to satisfy his unfulfilled continuing education requirements by May 30, 1999. The outstanding credits had been calculated as follows: twenty (20) credits for the 1993-1995 renewal period; forty (40) credits for the 1995-1997 renewal period; and forty (40) credits for the 1997-1999 renewal period.

4. At the time of the issuance of the Provisional Order of Discipline (July 21, 1999) respondent had not submitted any continuing education credits to the Board as required by the May 3, 1999 order.

5. Respondent has failed to comply with the terms of the May 3, 1999 Final Order of the Board in that he did not provide proof of completion of 100 hours of continuing education credit to the Board by May 30, 1999.

6. Respondent has now provided proof completion of 21 hours of continuing education.

CONCLUSION OF LAW

Respondent's action in failing to comply with the terms of a Board order constitutes a violation of N.J.A.C. 13:45C-1.5 and is found to be professional misconduct, providing grounds for discipline pursuant to N.J.S.A. 45:1-21(e).

In this matter, respondent has again shown his cavalier attitude toward the Board and its orders. A significant sanction is warranted because respondent did not comply with the terms of the Board's order of May 3, 1999. Despite a thirty day suspension at that time, respondent still ignored the Board's directive to provide proof of the continuing education credits. Even if the Board were to accept respondent's contention that he had faxed a letter to the Board on June 14, 1999 seeking an extension, a contention which the Board specifically rejects, the proofs were due in the Board's office by May 30, 1999, a full two weeks prior. Further, the Board notes that respondent failed to accept certified mail at his address of record and failed to respond to regular mail sent to him at that address, necessitating personal service of the Provisional Order. Even after personal service, respondent did not abide by the terms of the Provisional Order by submitting his reasons for modification of the order in writing to the Board office by the specified date. Rather he obtained yet another delay, finally submitting a response by fax 36 hours before the Board's meeting.

The Board is profoundly disturbed by respondent's conduct. Its May 3, 1999 order reflected its concern that a licensee had

practiced without a license for several years and had not provided one shred of proof that he had taken even one continuing education course during that time. The requirements for continuing education are in place to protect the public and to attempt to ensure that each licensee of the Board maintains a current knowledge base regarding the practice of dentistry. Each licensee has an obligation to his patients to ensure that he is practicing with all reasonable skill and safety. Each licensee has an obligation to comply with the Dental Practice Act, the Board's regulations, and where appropriate, with the Board's orders. There is no cafeteria plan of licensure where a dentist may pick and choose those requirements with which he will comply. Respondent was suspended in May 1999 for failing to comply with the Board's law and regulations. Now the Board, presented with no mitigating information, sanctions him for failing to comply with its order.

The Provisional Order set forth a sixty day suspension, which suspension would continue indefinitely until proof of completion of the continuing education requirements set forth in the May 3, 1999 order. Those credits are in addition to the forty credit hours required for the biennial renewal period 1999-2001. Respondent has asked for a 90 day extension to complete the credits. The Board will grant respondent one final extension, until January 31, 2000, to complete the 79 of the 100 credits still outstanding from the May 3, 1999 order and the forty credits required for the renewal period 1999-2001. The Board will stay the 60 day suspension until January 31, 2000. If proofs for the 119 hours of continuing

education are not received in the Board's office by February 1, 2000, the sixty day suspension will become active and the suspension will continue until respondent has complied with all terms of this order. The civil penalty of \$1,000.00 imposed provisionally by the Board is made final.

IT IS, THEREFORE, on this 22nd day of November, 1999,
ORDERED that:

1. The license of FLOYD DECHESER, D.D.S., to practice dentistry in the State of New Jersey is suspended for sixty (60) days and shall not be restored until such time as he completes and provides proof of completion to the Board of the outstanding seventy nine (79) hours of continuing education credits as required by the Board's Final Order of Discipline entered on May 3, 1999, and proof of completion of the forty (40) hours of continuing education credit required for the renewal period 1999-2000. This suspension shall be stayed until January 31, 2000.

2. If respondent fails to complete the 119 hours of continuing education by January 31, 2000, proof of which must be received in the Board office not later than February 1, 2000, the suspension set forth in paragraph one shall become effective immediately. The Enforcement Bureau of the Division of Consumer Affairs is hereby authorized to collect and hold respondent's license until such time as the respondent provides such proofs as are required by this order or the expiration of sixty days, whichever is later. During the period of suspension, respondent shall comply with the "Directive Regarding Future Activities of

Board Licensee Who Has Been Suspended/revoked and Use of the Professional Premises," a copy of which is attached here and made a part of this order.

3. Respondent shall pay a civil penalty in the amount of \$1,000.00 for the violations set forth above. Payment shall be made by certified check or money order payable to the State of New Jersey and submitted to Agnes M. Clarke, Executive Director, Board of Dentistry, P.O. Box 45005, Sixth Floor, 124 Halsey Street, Newark, New Jersey 07101, not later than January 31, 2000. Failure to submit the penalty shall result in the activation of the suspension as set forth in paragraph one above.

NEW JERSEY STATE BOARD OF DENTISTRY

By:

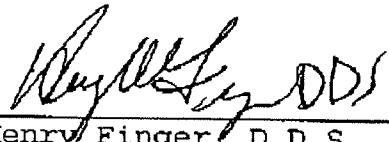

Henry Finger, D.D.S.
President

EXHIBIT A